

Chapter NR 154

AIR POLLUTION CONTROL

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History: Chapter NR 154 as it existed on March 31, 1972 was repealed and a new chapter NR 154 was created, Register, March, 1972, No. 195, effective April 1, 1972.

FOREWORD

Chapter 144, Wis. Stats., directs the department of natural resources to organize a comprehensive program to enhance the quality, management, and protection of the state's air resources. These rules are one part of that program. Chapter 144 also stresses the role of county government in establishing local air pollution control programs in cooperation with the department.

The objectives of these rules are to maintain standards of air quality at a level which will provide adequate protection to public health and welfare, and to prevent detrimental effect on property and our environment.

Nothing in these rules or in chapter 144, Wis. Stats., prohibits a county or local jurisdiction from adopting more restrictive ordinances where local conditions indicate their need.

These rules, all or in part, may be adopted by reference by a county or municipality.

It shall be the policy of the department to seek reasonable uniformity among local air pollution control ordinances in order to make the statewide comprehensive program more effective and less complicated for all persons concerned.

These rules are subject to periodic revision to reflect advancing control technology, increasing knowledge of the effect on health of sub-acute long term exposure to air pollutants and increased knowledge of the effect of pollutants on plant life, animal life, soils, and water resources.

NR 154.01 Definitions. (1) Affected facility is any type or class of air contaminant source which is required to submit a notice of intent and plans and specifications to the department prior to construction.

(2) Air contaminant is dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof but not including uncombined water vapor.

(3) Air contaminant source is any facility, building, structure, equipment, vehicle, or action or combination therein which directly or indirectly results in the emission of any air contaminant.

(a) Stationary source is any facility, building, structure, installation, or action or combination therein which directly or

indirectly results in the emission of any air contaminant at a fixed location.

1. Direct source is any stationary source which directly results in the emission of any air contaminant at a fixed location. (e.g., building demolition, foundry, grain elevator, gravel or stone quarry, paper mill, power plant, etc.)

2. Indirect source is any stationary source which conveys motor vehicles or which attracts or may attract mobile source activity and thus indirectly causes the emission of any air contaminant. Such indirect sources include, but are not limited to:

- a. Highways and roads.
- b. Parking facilities.
- c. Retail, commercial and industrial facilities.
- d. Recreation, amusement, sports and entertainment facilities.
- e. Airports.
- f. Office and government buildings.
- g. Apartment and condominium buildings.
- h. Education facilities.

(b) Portable source is any facility, installation, operation or equipment which directly results in the emission of any air contaminant while at a fixed location but is capable of being transported to a different location. (e.g., portable asphalt plant, portable package boiler, portable air curtain destructor, etc.) A modified portable source or a source which has never received a plan approval shall be considered a direct stationary source for the purpose of initial department approval of the source pursuant to sections NR 154.04 and NR 154.05.

(c) Semistationary source is any facility, installation, operation or equipment that has the capability of emitting any air contaminant while moving, but generally does not emit while moving. (e.g., diesel cranes, air compressors and electric generators such as those used at construction sites, etc.)

(d) Mobile source is any motor vehicle or equipment which is capable of emitting any air contaminant while moving. (e.g., automobile, bulldozer, bus, locomotive, motorboat, motorcycle, snowmobile, steamship, truck, etc.)

(4) Aircraft operation is a landing or a takeoff.

(5) Air curtain destructor is an incineration device which utilizes a pit for burning combustible matter, into which air is blown at high velocity through a manifold and nozzle system along one side of the pit to create a turbulent, vortical flow of air combustible gases in the pit to bring about complete combustion.

(6) Air pollution is the presence in the atmosphere of one or more air contaminants in such quantities and of such duration as is or tends to be injurious to human health or welfare, animal or plant life, or

property, or would unreasonably interfere with the enjoyment of life or property.

(7) Air pollution episode levels: Levels of air quality which are so degraded as to pose imminent danger to public health.

(a) "Alert": The alert level is that concentration of one or more air contaminants at which the first stage control actions begin.

(b) "Warning": The warning level indicates air quality is continuing to degrade and that additional control actions are necessary.

(c) "Emergency": The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary.

(8) AQCR: Air quality control region.

(9) Air quality maintenance area: An area designated pursuant to federal or Wisconsin laws as having the potential for exceeding any of the ambient air quality standards.

(10) Air region: An area designated pursuant to federal or Wisconsin laws in which a program to maintain or achieve air standards is implemented on a regional basis.

(11) Ambient air: The portion of the atmosphere external to buildings and to which the general public has access.

(12) API: American Petroleum Institute, 1801 K Street, N.W., Washington, D.C., 20006.

(13) ASME: American Society of Mechanical Engineers, 345 E. 47th Street, New York, New York.

(14) ASTM: American Society for Testing and Materials, 1916 Race St., Philadelphia, Pa., 19103.

(15) Areawide air quality analysis: A macroscale analysis utilizing a modeling technique approved by the department.

(16) Asbestos mill: Any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of such a facility.

(17) Asbestos tailings: Any solid waste product of asbestos mining or milling operations which contain asbestos.

(18) Associated parking area: A parking facility or facilities owned and/or operated in conjunction with an indirect source.

(19) Average daily traffic: The total traffic volume during a given time period in whole days greater than one day and less than one year divided by the number of days in that time period. The average daily traffic is commonly abbreviated as ADT.

(20) BTU: British thermal unit.

(21) Commence construction: To engage in a program of on-site construction, including site clearance, grading, dredging or landfilling specifically designed for a stationary source in preparation for the

fabrication, erection or installation of the building components of the stationary source. (Formerly NR 154.01 (8)).

(22) Commence modification: To engage in a program of on-site modification which may include site clearance, grading, dredging or landfilling in preparation for a specific modification of a stationary source.

(23) Commercial asbestos: Any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(24) Crude petroleum: A naturally occurring mixture which consists of hydrocarbons and/or sulfur, nitrogen and/or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

(25) Department: The department of natural resources, state of Wisconsin.

(26) Dose: The total exposure to a pollutant over a specified time period.

$$\text{Dose} = \int_{T_1}^{T_2} C \, dt$$

where T_1 is the starting time, T_2 the end of the time period and C is the pollutant concentration which varies with time, $C = f(t)$.

(27) Emergency or reserve equipment: That equipment used when normal equipment fails, or used only to meet high peak loads.

(28) Emission: A release of air contaminants into the atmosphere.

(29) Equivalent air-dried kraft pulp: Pulp production which produces a loading of black liquor solids to the recovery furnace equivalent to that loading produced with kraft pulp.

(30) Equivalent opacity: An opacity of 20 percent per Ringlemann number.

(31) Floating roof: A storage vessel cover consisting of a double deck, a pontoon single deck, an internal floating cover or covered floating roof, which rests upon and is supported by the petroleum liquid being contained, and is equipped with a closure seal or seals to seal the space between the roof edge and tank wall.

(32) Fuel gas: Any gas which is generated by a petroleum refinery process unit and which is combusted, including any gaseous mixture of natural gas and fuel gas which is combusted.

(33) Fugitive dust: Solid airborne particles emitted from any source other than a flue or stack.

(34) Highway project: All or a portion of a proposed new or modified section of highway. Where an environmental statement is to be prepared, the highway project may be taken to cover the same length of highway.

(35) Hydrocarbon: Any organic compound containing carbon and hydrogen.

(36) Implementation plan: A plan adopted to implement, maintain, and enforce air standards within an air region, or portion thereof.

(37) Kraft process: Any pulping process which uses an alkaline sulfide solution containing sodium hydroxide and sodium sulfide for a cooking liquor.

(38) Modification: Any change in physical size or method of operation of a stationary or portable source which increases the amount of any air contaminant emitted except that:

(a) Routine maintenance and repair shall not be considered physical changes.

(b) The following shall not be considered changes in method of operation unless an ambient air quality standard is violated:

1. An increase in production rate if such increase does not exceed the operating design capacity of the stationary source.

2. An increase in the hours of operation.

3. Use of an alternate fuel or raw material.

4. Resumption of operation of existing equipment after a period of closure.

(39) New direct or portable source: A direct or portable source, the construction or modification of which is commenced after April 1, 1972, or the effective date of promulgation of an emission limit which applies.

(40) New indirect source: An indirect source, the construction or modification of which is commenced after July 1, 1975.

(41) Noncondensibles: Gases and vapors from processes that are not condensed with the equipment used in those processes.

(42) Opacity: The state of a substance which renders it partially or wholly impervious to rays of light.

(43) Open burning: Oxidation from which the products of combustion are emitted directly into the ambient air without passing through a stack or chimney.

(44) Organic compound: A compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, ammonium carbonate and methane.

(45) Parking capacity: The maximum number of vehicles which a parking facility is designed to hold based on an allotment of not more than 350 square feet of stall and aisle area per vehicle.

(46) Particulate or particulate matter:

(a) For an existing direct or portable source: Any material which exists as a solid at standard conditions.

(b) For a new direct or portable source: Any material which exists as a solid or liquid at standard conditions except uncombined water.

(47) Parts per million (ppm): Parts of a contaminant per million parts of gas by volume.

(48) Peak hour volume: The highest one-hour traffic volume in a calendar year.

(49) Performance test: Measurements of emissions or other procedures used for the purpose of determining compliance with a standard of performance.

(50) Person: Any individual, corporation, cooperative, owner, tenant, lessee, syndicate, partnership, firm, association, trust, estate, public or private institution, political subdivision of the state of Wisconsin, any state agency, or any legal successor, representative, agent, or agency of the foregoing.

(51) Petroleum: The crude oil removed from the earth and the oils derived from tar sands, shale and coal.

(52) Petroleum liquid: Crude petroleum, condensate and any finished or intermediate products manufactured in a petroleum refinery except for Number 2 through Number 6 fuel oils as specified in ASTM-D-396-73, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM-D-2880-71, or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM-D975-73.

(53) Petroleum refinery: Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants or other products through distillation of petroleum or through redistillation, cracking or reforming of unfinished petroleum derivatives.

(54) Process gas: Any gas generated by a petroleum refinery process unit except fuel gas and process upset gas as defined in this section.

(55) Process line: One or more actions or unit operations which must function simultaneously in order to manufacture or modify a product. (e.g., a spray booth, conveyor and drying oven are considered a process line.)

(56) Process upset gas: Any gas generated by a petroleum refinery process unit as a result of start-up, shut-down, upset or malfunction.

(57) Process weight: The total weight of all materials introduced into any direct source operation, except liquid fuels, gaseous fuels and air.

(58) Refinery process unit: Any segment of petroleum refinery in which a specific processing operation is conducted.

(59) Reid vapor pressure: The absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquified petroleum gases as determined by ASTM-D-323-72.

¹American Society for Testing and Materials, Part 17, 1973.

Note: Copies of applicable standards from Part 17; Petroleum Products - Fuels, Solvents, Burner Fuel Oils, Lubricating Oils, Cutting Oils, Lubricating Greases, Hydraulic Fluids; are available for inspection at the offices of the Department of Natural Resources, Pyare Square Building, Secretary of State and Revisor of Statutes, State Capitol, Madison, Wisconsin, and may be procured for personal use from ASTM, 1916 Race Street, Philadelphia, Pa., 19103.

²Ringelmann Chart published December, 1950, by the U.S. Bureau of Mines.

Note: Copies of "Fundamentals of Smoke Abatement," December, 1950, Ringelmann Chart, Information Circular 7588, are available for inspection at the offices of Department of Natural Resources, Pyare Square Building, and Secretary of State and Revisor of Statutes, State Capitol, Madison, Wisconsin, and may be procured for personal use from the United States Department of Interior, Washington, D.C.

(60) Ringelmann Chart: The chart published by the U.S. bureau of mines in which are illustrated graduated shades of grey to black for use in estimating the shade or density of smoke.²

(61) Secretary: The secretary of the department of natural resources, state of Wisconsin.

(62) Smoke: All products of combustion of sufficient density to be observable, including but not limited to carbon, dust, fly ash, and other particles.

(63) Stack: Any device or opening designed or used to emit air contaminants to the ambient air.

(64) Standard conditions: A temperature of 20° Celsius (centigrade) (68°F) and a pressure of 760 millimeters of mercury (29.92 inches of mercury).

(65) Standard Metropolitan Statistical Area (SMSA): Such area as designated by the U.S. bureau of the budget in the following publication: "Standard Metropolitan Statistical Areas,"³ issued in 1967, with subsequent amendments. The following Wisconsin counties are included in SMSA's:

(a) Appleton-Oshkosh, Wisconsin SMSA:

1. Calumet county
2. Outagamie county
3. Winnebago county

(b) Duluth-Superior, Minnesota-Wisconsin SMSA: Douglas county

(c) Green Bay, Wisconsin SMSA: Brown county

(d) Kenosha, Wisconsin SMSA: Kenosha county

(e) La Crosse, Wisconsin SMSA: La Crosse county

(f) Madison, Wisconsin SMSA: Dane county

(g) Milwaukee, Wisconsin SMSA:

1. Milwaukee county
2. Ozaukee county
3. Washington county
4. Waukesha county

(h) Minneapolis-St. Paul, Minnesota-Wisconsin SMSA: St. Croix county

(i) Racine, Wisconsin SMSA: Racine county

²Specified in Federal Information Processing Standards, Publication 8-2, U.S. Department of Commerce, National Bureau of Standards, November, 1972, as amended by publication OMB-84 of the Executive Office of the President, Office of Management and Budget, April 27, 1973.

Note: Copies of Federal Information Processing Standards Publication 8-2 are available for inspection in the office of the Department of Natural Resources, Pyare Square Building and the Secretary of State and Revisor of Statutes, Capitol, Madison, Wisconsin, or may be obtained for personal use from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.

(66) Total reduced sulfur (TRS): Hydrogen sulfide, mercaptans, dimethyl disulfide, and any other organic sulfides.

(67) Traffic volume: The number of vehicles that pass a particular point on the roadway during a specific time period. Volume can be expressed in terms of daily traffic or annual traffic as well as on an hourly basis.

(68) True vapor pressure: The equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, *Evaporation Loss from Floating Roof Tanks*, 1962.

(69) Uncombined water: Water not chemically or physically bound to other materials.

(70) Vapor recovery system: A vapor gathering system capable of collecting all types of hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission into the atmosphere.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72, renum. (41) (a) 6 to be (41) (c); am. (41) (c) 3. and 4., Register, December, 1972, No. 204, eff. 1-1-73; r. and recr., Register, June, 1976, No. 234, eff. 7-1-76; renum. (3) (b) and (c) to be (3) (c) and (d), renum. (3) (a) 3. to be (3) (b) and am., am. (38) (intro.), Register, April, 1977, No. 256, eff. 5-1-77.

NR 154.02 Applicability. (1) The provisions of this chapter govern the release of air contaminants to the ambient air and the regulation of air contaminant sources by the department.

(2) The department may by order issued under section 144.35 (1) (b), Wis. Stats., authorize compliance with an emission limitation prescribed in this chapter after July 31, 1975, to expire on the date stated in the order, if it determines that NR 154.09 (1) Wis. Adm. Code applies and that all the conditions listed in such rule and hereunder are met. The department shall hold a public hearing in accordance with its rules prior to granting any such deferral which exceeds 90 days in total duration and shall not, without the express approval of a majority of the natural resources board, grant any deferral which exceeds one year in total duration. Prior to authorizing any such deferral, the department shall determine:

(a) The cause of the violation was a mechanical breakdown, act of God, or some other condition beyond the entity's control;

(b) The air contaminant source is located so that it will not delay attainment or affect maintenance of an ambient air quality standard at any point beyond the property line of the entity;

(c) Good faith efforts have been made to comply with this chapter and the cause of noncompliance could not have been forestalled by normal maintenance procedures (including advanced purchase of inventory and replacement parts);

(d) If the source is a new source, the cause of the violation was a mechanical breakdown or act of God which was demonstrably beyond the entity's control when using all prudent planning;

(e) The air contaminant for which a deferral is sought is not a hazardous pollutant for which an emission standard has been

established by the administrator of the U.S. environmental protection agency.

(3) All available alternative operating procedures and interim control measures to minimize emissions shall be utilized by the air contaminant source during the period of any allowed exemption.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; am., cr. (2) and (3), Register, June, 1976, No. 234, eff. 7-1-76; cr. (2) (d), Register, July, 1976, No. 235, eff. 8-1-76.

NR 154.03 Registration of existing sources. When requested by the department, a person shall furnish to the department, information to locate and classify air contaminant sources according to type, level, duration, characteristics and such other information as may be necessary. The information shall be sufficient to evaluate the effect on air quality and compliance with these rules.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; am. Register, June, 1976, No. 234, eff. 7-1-76.

NR 154.04 Notice of intent. (1) No person shall cause, suffer, allow or permit the construction of a new stationary source, or the addition to, relocation, modification, or replacement of an existing stationary source listed hereunder, without submitting in writing a notice of intent to the department, containing the information required by NR 154.04(3), prior to commencing construction or modification of said source. A notice of intent shall be submitted for any stationary source:

(a) Which can burn coal, coke or other solid fuel at a heat input rate greater than one million BTU per hour.

(b) Which can burn distillate oil (fuel oil), crude oil or residual oil at a heat input rate greater than 5 million BTU per hour.

(c) Which can burn gaseous fuel at a heat input rate greater than 30 million BTU per hour.

(d) Which can incinerate solid wastes at a rate greater than 50 pounds per hour (dry basis) or which can incinerate liquid wastes at a rate greater than 50 pounds per hour. Incinerators over 1,000 pounds per hour capacity are to be licensed under the solid waste management rules, Wis. Adm. Code chapter NR 151. A single submittal of a notice of intent to the department will be sufficient notification.

(e) Which produces carbon black, charcoal, detergent or soap, explosives, hydrofluoric acid, nitric acid, paint, varnish, phosphoric acid, plastics, printing ink, sodium carbonate, sulfuric acid, sulfur dioxide, dehydrated alfalfa, dried corn, roasted coffee, feed and grain, fish meal, fertilizers, smoked meats and sausage, starch, primary metals, ferroalloys, metallurgical coke, cast metals, asphalt roofing, asphalt concrete, brick or clay products, calcium carbide, cement, ceramics, cleaned coal, concrete mix, desulfurized oil, fiberglass, frit glass, gypsum, lime, mineral wool, paperboard, perlite, paper pulp, phosphate rock, gravel, sand, stone, refined petroleum or petrochemical products, or wood products.

(f) Which emits asbestos, antimony, barium, beryllium, bromine, cadmium, chlorine, chromic acid, chromates, chromium, cobalt fume or dust, copper fume or dust, cyanides, fluorine, hydrogen chloride, hydrogen fluoride, iron (water soluble salts), lead, manganese,

mercury, molybdenum, nickel carbonyl, nickel, nitric acid (including anhydrides), phosphoric acid including anhydrides, phosphorus (yellow), platinum (water soluble salts), selenium, sulfuric acid, thallium (water soluble compounds), tin, uranium, vanadium, pesticides, their mixtures, or their compounds. This section shall not apply to laboratories or water chlorination facilities.

(g) Which emits or may emit organic compounds at more than 15 pounds per day or more than 3 pounds per hour.

(h) Which can store more than 1,000 gallons of a photochemically reactive compound.

(i) Which can store more than 40,000 gallons of any organic compound.

(j) Which is an indirect source located in a standard metropolitan statistical area (SMSA) and which meets one of the following criteria:

1. Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 1,000 cars or more.

2. Any modified parking facility or any modification of an associated parking area which increases parking capacity by 500 cars or more.

3. Any new highway project with an anticipated annual peak hour traffic volume of 1,200 or more vehicles per hour within 10 years of construction.

4. Any highway modification project which will increase the annual peak hour traffic volume by 1,200 or more vehicles per hour within 10 years after modification.

(k) Which is an indirect source outside all SMSA's and which meets one of the following criteria:

1. Any new parking facility or other new indirect source with an associated parking area which has a parking capacity of 1,500 cars or more.

2. Any modified parking facility or any modification of an associated parking area which increases parking capacity by 750 cars or more.

3. Any new highway project which will carry 4 or more lanes of traffic and which has an anticipated annual peak hour traffic volume of 1,800 or more vehicles per hour within 10 years of construction.

4. Any highway modification project which will create an additional 2 or more lanes of traffic and which will increase the annual peak hour traffic volume by 1,800 or more vehicles per hour within 10 years after modification.

(l) Which is an airport, the construction or general modification program of which is expected to result in the following activity within 10 years of construction or modification:

1. New airport: 50,000 or more operations per year by regularly scheduled certificated air carriers, or use by 1,000,000 or more passengers per year.

2. Modified airport: Increase of 50,000 or more operations per year by regularly scheduled certificated air carriers over the existing volume of operations or increase of 1,000,000 or more passengers per year.

(m) Which exceeds one of the criteria in NR 154.04 (1) as a result of incremental growth. Where a stationary source is constructed or modified in increments which individually are not subject to review under this paragraph, all such increments occurring since the effective date of this rule or since the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph; or

(n) Which has uncontrolled emissions which exceed or are estimated to exceed 6 pounds per hour of any air contaminant or which causes objectionable odors. In those cases where this size limitation applies as well as another of the limitations above, the more restrictive limitation shall be used.

(2) The department shall respond within 15 days after receipt of a notice of intent which contains the information required by NR 154.04 (3). This response shall contain either:

(a) A list of plans, specifications and other information needed to allow the department to initiate its analysis pursuant to NR 154.05 as to whether or not the proposed new source will be in accordance with applicable rules in force pursuant to sections 144.30 to 144.46, 144.54 and 144.57, Wis. Stats.; or

(b) A notification that the notice of intent submitted contained sufficient information to allow the department to make a preliminary determination, pursuant to NR 154.05 (1) (a), as to whether or not the source is in compliance with applicable air pollution control statutes and rules and that the procedures of NR 154.05 will proceed.

(3) A separate written notice of intent shall be submitted for each construction or modification project.

(a) For all stationary sources, said notice of intent shall include, but not be limited to:

1. The name, address and telephone number of the person submitting the notice of intent and the names (s) and address (es) of any other owner (s) and/or operator (s) of the facility.

2. A listing of all stationary sources associated with the facility.

3. A map showing the location and layout of the facility and adjacent streets, roads and property.

4. The expected dates when construction will commence, when emissions associated with the operation of the facility will begin, and when all aspects of the facility will be completed and open for business or fully operational; and

5. The estimated cost of the project.

(b) For direct sources, said notice of intent shall include, but not be limited to, in addition to the information required in subsection (3) (a) above:

1. Manufacturer of the equipment; model number and rated capacity.
2. Description of the process and a flow diagram.
3. Estimated composition and amounts of raw materials used.
4. Expected types, composition and amounts of fuel burned, including:
 - a. Heating values.
 - b. Sulfur content, percentage by weight.
 - c. Ash content, percentage by weight.
5. Operating schedule.
6. Information on any equipment to be used for measurement or control of emissions.
7. Stack height, temperature, exit diameter and exit velocity; and
8. Emission rates at rated capacity of particulate matter, sulfur oxides, nitrogen oxides, carbon monoxide, hydrocarbons, TRS or any toxic and hazardous materials.

(c) For indirect sources other than highway projects, said notice of intent shall include, in addition to the information required in subsection (3) (a) above:

1. A description of the proposed use of the site, including the normal hours of operation of the facility and the general types of activities to be operated therein; and
2. A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas and the location and height of buildings on the site.

(d) For airports, said notice of intent shall include, in addition to the information required in subsection (3) (a) above:

1. An estimate of the maximum number of aircraft operations per day by type of aircraft and an estimate of total passenger loadings during the first and tenth years after the expected date of completion; and
2. The information required under subsection (3) (c) above.

(e) For highway projects, said notice of intent shall include, in addition to the information required in subsection (3) (a) above:

1. An estimate of the annual peak hour traffic volume and annual average daily traffic volume expected during the first and tenth years after the expected date of completion.
2. An estimate of vehicle speeds for annual peak hour and annual average daily traffic volume conditions.

3. The maximum vehicle capacity of the highway project; and
4. A description of the general features of the highway project and associated right-of-way, and location of receptors along the right-of-way.

(4) Exemption from the requirement to submit a notice of intent does not relieve any persons from compliance with the emission limits of this chapter, the air quality requirements of Wis. Adm. Code chapter NR 155, or the reporting requirements of Wis. Adm. Code chapter NR 101.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; r. and recr. Register, June, 1975, No. 234, eff. 7-1-75; am. (1), renum. (2) and (3) to be (3) and (4) and am., cr. (2), Register, April, 1977, No. 256, eff. 5-1-77.

NR 154.05 Action on applications. (1) Within 30 days after receipt of 2 copies of the plans, specifications and other information provided pursuant to section 144.39(1), Wis. Stats., needed to allow the department to analyze whether or not the source is in compliance with appropriate air pollution statutes and rules, or within 30 days after receipt of a notice of intent for construction of a source which does not require submittal of plans, specifications or other information, the department shall:

(a) Make a preliminary determination of whether the source should be approved, approved with conditions in accordance with subsections (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the source would be constructed a copy of all nonconfidential materials submitted by the owner or operator, a copy of the department's analysis and preliminary determination, and a copy or summary of other materials, if any, considered by the department in making its preliminary determination.

(c) Notify the applicants, interested members of the public, and appropriate federal, local and state officials of the proposed project, of the department's preliminary determination, and of the opportunity for public comment.

(d) Place a notice in a newspaper of general circulation in each region in which the source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the department's preliminary determination on the approvability of the source.

(2) Public comments submitted in writing within 30 days after the date of said public notice shall be considered by the department in making its final decision on the application. The applicant may submit a written response to any comments submitted by the public no later than 10 days after the close of the public comment period. The department shall consider the applicant's response in making its final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(3) (a) The department shall take final action on the source after the close of the public comment period and after reviewing any response the applicant wishes to make to public comments. The

department shall, by order, notify the owner or operator of the source in writing of its approval, conditional approval or disapproval of the proposed source. Said order must be issued within 30 days of the close of this public comment period and shall be made available for public inspection in at least one location in the region in which the source would be located. Construction may proceed only after an order granting approval or conditional approval has been received from the department and must proceed in accordance with the plans, specifications, and other information submitted and in accordance with any conditions imposed by the department.

(b) Notwithstanding any other provision appearing in this chapter, the department may not approve or disapprove any application until the department has discharged its duties under section 1.11, Wis. Stats.

(4) For an indirect source other than a highway project or an airport, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) Raise the carbon monoxide level in the area sufficiently to prevent the construction of any other stationary source, for which plans are received by the department prior to the commencement of the plan review period for the affected facility, from being approvable under these rules.

(5) For an indirect source other than a highway project or an airport, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) Raise the carbon monoxide level in the area sufficiently to prevent the construction of any other stationary source, for which plans are received by the department prior to the commencement of the plan review period for the affected facility, from being approvable under these rules.

(6) For a highway project subject to this paragraph, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) Degrade the air quality along the highway corridor sufficiently to prevent construction of any other indirect source, for which plans are received by the department prior to the commencement of the

plan review period for the affected facility, from being approvable under these rules.

(d) The determination pursuant to subsections (6) (b) and (c) of this section shall be made by evaluating the anticipated concentrations of carbon monoxide at nearby receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the 10-year period following the expected date of completion, using traffic flow characteristic guidelines published by the U.S. environmental protection agency, appropriate atmospheric diffusion models, and/or any other reliable analytic method.

(e) For any new highway project with an anticipated average daily traffic volume of 50,000 or more vehicles per day within 10 years of construction or any highway modification project which will increase the average daily traffic volume by 25,000 vehicles per day or more within 10 years after modification, the department may require the following in addition to the requirements of subsection (6) (d) of this section for consideration in determining the approvability of the affected facility. The expected concentrations of carbon monoxide, photochemical oxidants and nitrogen dioxide shall be estimated for the 10-year period following completion of construction or modification using an areawide air quality analysis or other modeling technique approved by the department.

(7) For an airport subject to this paragraph, the department shall issue an order prohibiting construction if it determines that the affected facility will:

(a) Cause a violation of any control strategy of the state implementation plan.

(b) Cause or exacerbate a violation of either ambient air quality standard for carbon monoxide in any region or portion thereof.

(c) The determination pursuant to subsection (7) (b) of this section shall be made according to department guidelines. These guidelines may include the following:

1. All emissions from air contaminant sources at the airport, as well as emissions from the development of other new stationary sources expected to occur within 3 miles of the perimeter of the airport, will be added together in order to determine the aggregate impact on air quality for the 10-year period following the expected date of completion.

2. An areawide air quality analysis, or other modeling technique approved by the department will be used to determine the expected ambient concentration of carbon monoxide following construction or modification.

3. For highway projects and parking facilities specified under subsection (7) (c) of this section which are associated with airports, the applicable procedures specified in subsections (6) (d) and (e) of this section will be used.

(d) In addition to the requirements of subsection (7) (c) of this section, the department may require that an areawide air quality analysis or other modeling technique approved by the department be used to determine the expected ambient concentrations of

photochemical oxidants and nitrogen dioxide following construction or modification for consideration in determining the approvability of the affected facility.

(8) The air quality impact of a proposed stationary source will be determined at such locations where people might reasonably be exposed for time periods consistent with the ambient air quality standards for the pollutants for which an analysis is carried out.

(9) Whenever a stationary source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth in subsections (4), (5), (6) or (7) of this section, the department may, instead of issuing an order prohibiting construction, grant a conditional approval which imposes reasonable conditions related to the air quality aspects of the proposed facility so that such facility, if constructed or modified in accordance with such conditions, could meet the tests set forth in subsections (4), (5), (6) or (7) of this section. For indirect sources, such conditions may include, but are not limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the facility secured by the owner or operator from governmental agencies having jurisdiction thereof.

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for the employes and patrons of the source.

(c) Binding commitments by the owner or operator to construct, modify or operate the facility in such a manner as may be necessary to achieve the traffic flow characteristics which have been determined not to cause violations of the national standards for carbon monoxide.

(10) Notwithstanding the provisions relating to modified stationary sources contained in NR 154.04(1), the department may condition any approval by reducing the extent to which the facility may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct a stationary source in accordance with the application as approved by the department; any owner or operator who fails to construct and operate a stationary source in accordance with conditions imposed by the department under subsection (9) of this section; any owner or operator who modifies a stationary source in violation of conditions imposed by the department under subsection (10) of this section; or any owner or operator of a stationary source subject to this section who commences construction or modification thereof after the effective date of these rules, without applying for and receiving approval hereunder, shall be considered in violation of this chapter.

(12) Approval to construct or modify a stationary source other than an airport or a highway section shall become invalid if construction or modification is not commenced within 24 months after the date when written approval was issued by the department. The department may extend such time period for up to 12 months on written request upon satisfactory showing that an extension is justified.

(13) Approval to construct or modify an airport shall become invalid if construction or modification is not commenced within 4

years after the date when written approval was issued by the department. The department may extend such time period for 2 years on written request.

(14) Approval to construct or modify for a highway project shall become invalid if construction or modification is not commenced within 6 years after the date when written approval was issued by the department. The department may extend such time period for up to 3 years on written request.

(15) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the emission limits of this chapter, the air quality standards of Wis. Adm. Code chapter NR 155 or the control strategies of all local, state and federal regulations which are part of the state implementation plan.

(16) The department may share review and public comment responsibilities for a source which is to be constructed by another agency of the state with such agency if the procedures followed by the agency fulfill the requirements of these subsections. Preliminary determination of the approvability of the source, evaluation of public comment on its air quality impact, and final approval or disapproval shall be the responsibility of the department.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; r. and recr. Register, June, 1975, No. 234, eff. 7-1-75; r. (1), (2) renum. to be (1) and am., cr. (2), renum. (4) to (16) to be (6) to (16) renum. (3) to be (4), cr. (3), Register, April, 1977, No. 266, eff. 5-1-77.

NR 154.055 Relocation of portable sources. (1) No person shall cause, suffer, allow or permit the relocation to a new site, without first meeting the requirements of this section, of a portable source:

(a) Which can burn coal, coke or other solid fuel at a heat input rate greater than one million BTU per hour.

(b) Which can burn distillate oil (fuel oil), crude oil or residual oil at a heat input greater than 5 million BTU per hour.

(c) Which can burn gaseous fuel at a heat input rate greater than 30 million BTU per hour.

(d) Which emits or may emit, with any emission control equipment inoperative more than 6 pounds per hour of any air contaminant or which causes objectionable odors. In those cases where this size limitation applies as well as another of the limitations above, the more restrictive limitation shall be used.

(2) For portable sources operating under a plan approval pursuant to NR 154.01 (3) (b), NR 154.04 and NR 154.05, relocation to a different site shall be approved, approved with conditions, or denied by the department in writing within 30 days after receipt of a completed site change form to be supplied by the department.

(3) The department shall approve relocation of a portable source if:

(a) The source meets the applicable emission limits.

(b) Operation at the proposed new site will not cause nuisance conditions.

(c) Operation at the new site will not cause a violation of any control strategy of the state implementation plan or cause or exacerbate a violation of any air quality standard.

(4) In applying for relocation approval an applicant may request approval of more than one site. If more than one site is approved, the portable source may be relocated from one approved site to another approved site without the submission of an additional site change form to the department. However, the department shall be notified of any such relocation to another approved site prior to the commencement of operations thereon.

History: Cr. Register, April, 1977, No. 256, eff. 5-1-77.

NR 154.06 Operation and inspection of sources. (1) No person shall deny information or access to records relating to emissions to an authorized representative of the department.

(2) The department may require: Provision for sampling ports, a safe work area for test crews, safe access to the sampling platform, utilities for sampling and testing equipment, stack or performance tests performed by or under the direction of a qualified engineer or person with demonstrated ability in this field, instrumentation to monitor and record emission data, stack or performance tests performed in compliance with emission test guidelines developed by the department and submitted to the tester prior to the conducting of the test, or transfer of the test data sheets or sample collecting media to the department's witness for evaluation.

(a) The department shall be notified 10 days in advance of stack or performance tests to afford the department the opportunity to have a representative present to witness the testing procedures. Said notice shall provide a test plan which includes:

1. A description of the sampling equipment.
2. A description of the processes, operations, and equipment venting to the stack.
3. A description of process or operation variables which affect the air contaminant source's emissions.
4. A cross-sectional sketch showing:
 - a. Stack configuration at the sampling location.